IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22755 of 2004

Between:

Edaiah S/o Paddaiah, R/o Tirumalgiri, Nalgonda District

..... PETITIONER

AND

1 The Divisional Forest Officer, Nalgonda, Nalgonda District.
2 R. Ram Prasad, S/o late Sri Venkata Subba Rao, R/o 6-2-2/73, Road No.5 Venkat Ramana Colony, Nagole, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, directing the first respondent to pass an order on the petitioner's representation dated 6-11-2004 made under Sec. 44(2-C) of A.P. Forest Act.

For the Petitioner: Mr.C.Raghu, Advocate

For the Respondent No.1: GP for Forests

For the Respondent No.2: Sri K.K. Mahender Reddy, Advocate

The Court at the admission stage made the following :

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ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Forests, and at their request the writ petition is disposed of finally at the stage of admission.

The petitioner, who claims to be owner of Tractor bearing No.AAR 121, which is involved in a forest offence, filed this writ petition questioning the inaction of the first respondent in passing orders on his representation, dated 06-11-2004 made under Section 44 (2-C) of the A.P. Forest Act, 1967 (for short 'the Act') for release of the Tractor.

It is submitted by the learned Government Pleader for Forests that the vehicle in question was seized in a forest offence committed by the second respondent herein who is the lessee of the vehicle and though a notice, dated 22-06-2004 under Section 44 of the Act was issued to the second respondent herein and another to present before the first respondent herein for making representation in the matter within 15 days, instead of appearing before the first respondent they approached before this Court. He also submits that since the confiscation proceedings are pending before the designated authority i.e. the first respondent herein, interim release of the vehicle involved in a forest offence cannot be released and more so when the interim order obtained by the second respondent herein in W.P.M.P. No.13125 of 2004 directing release of the vehicle was set aside by this Court in W.A. No.1310 of 2004, dated
13-08-2004. Thus, he prays to dismiss the writ petition.

Admittedly, the second respondent herein earlier filed W.P. No.10344 of 2004

along with W.P.M.P. No.13124 of 2004 for a direction to the respondents therein not to interfere with the mining operations and also W.P.M.P. No.13125 of 2004 for release of the vehicle in question pending the writ petition and this court by order dated 08-07-2004 directed release of the vehicle and also directed the respondents not to interfere with the mining operations. Aggrieved thereby, the first respondent herein and also Forest Range Officer, Deverkonda Range, Nalgonda District filed writ appeals in W.A. Nos.1309 and 1310 of 2004, wherein a Division Bench of this Court passed the following order:

"In case, learned single judge was of the view that the action of the appellate in preventing the respondent's mining operations is illegal, he could have as well taken up the writ petition for hearing and passed appropriate orders. If the tractor is released and the writ petitioner is permitted to carry on mining operations, it amounts to allowing the writ petition itself. Therefore, the impugned order is set aside. Learned single judge will decide the writ petition itself and pass appropriate orders."

Admittedly, the confiscation proceedings are pending before the first respondent, namely the Divisional Forest Officer, Nalgonda, Nalgonda District, who is the designated authority.

I n ***State of Karnataka V. K. Krishnan*** *A N D* ***Section Forestor V. Mansur Ali Khan*** , the Apex Court held that vehicle seized for committing forest offences shall not normally be returned to party till culmination of all proceedings in respect of said offence.

In **State of West Bengal and others Vs. Sujit Kumar Rana,** it was also held by the Supreme Court that High Court cannot exercise its inherent powers for interim release of the vehicle used for carrying forest produce or involved in forest offence, pending confiscation proceedings before the designated authority.

In view of the above proposition of law, and since proceedings initiated under Section 44 (2) of the Act are pending before the designated authority i.e. the first respondent herein, and in view of the fact that the interim order in W.P.M.P. No.13125 of 2004 in W.P. No.10344 of 2004, dated 08-07-2004 directing release of the said vehicle was set aside by this Court in W.A. No.1310 of 2004, dated 13-08-2004, the relief of the petitioner herein seeking a direction to the first respondent to pass an order on his representation, dated 06-11-2004 made under Section 44(2-C) of the Act for release of his Tractor bearing No. AAR 121, which is involved in a forest offence, cannot be granted, and I see no merits in the writ petition.

Accordingly, the writ petition is dismissed at the stage of admission. No costs.

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N.V. RAMANA, J

Date: 09-12-2004

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To

1 The Divisional Forest Officer, Nalgonda, Nalgonda District.

2 Two C.Cs. to the Government Pleader for Forests, High Court Buildings, A.P., Hyderabad (OUT).

3 Two C.D.copies.